

ASSEMBLY BILL

No. 1755

**Introduced by Committee on Elections and Redistricting (Umberg
(Chair), Klehs, Leno, and Levine)**

March 15, 2005

An act to amend Sections 82048.7, 84203, 84204, 87205, 87500, and 91007 of, and to repeal Sections 84200.3 and 84200.4 of, the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1755, as introduced, Committee on Elections and Redistricting. Political Reform Act of 1974: enforcement.

Existing provisions of the Political Reform Act of 1974 define a “sponsored committee” for purposes of the act.

This bill would make a nonsubstantive change to that definition.

Existing provisions of the act require financial reports in connection with campaigns, including provisions requiring certain committees to file these reports in odd-numbered years prior to a March primary according to specified schedules. Existing law has moved the March primary date to the first Tuesday following the first Monday in June.

This bill would repeal specified provisions of the act that address reporting requirements relating to the former March primary date.

Existing provisions of the act require a candidate or committee that makes or receives a late contribution, or a committee that makes a late independent expenditure, to report the contribution or expenditure by specified means. In addition, provisions of the act require certain of these types of contributions and expenditures to be reported online, and provide that those expenditures and contributions that are required to be reported online need not also be reported by the alternative means in the act.

This bill would clarify that the alternative reports are not required for a candidate or committee that has disclosed the expenditures and contributions online.

Existing law requires holders of specified public offices to file disclosures of investments, real property interests, and income within specified periods of assuming or leaving office. The act provides that a holder of one of these offices who completes a term of an office within 30 days of beginning a term of the same office or another of these specified offices of the same jurisdiction is not deemed to assume office or leave office.

This bill would provide instead that a holder of one of these offices who completes a term of an office within 45 days of beginning a term of the same office or another of these specified offices of the same jurisdiction is not deemed to assume office or leave office.

Existing provisions of the act require statements of economic interest to be filed by certain public officers, employees, and candidates for office, and specify with whom the statements must be filed according to the employing agency or office of the officer, employee, or candidate. The act requires city treasurers to file these statements.

This bill would provide that candidates for city treasurer must also file these statements.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing potential criminal penalties on candidates for city treasurer who fail to file statements of economic interests as required by the bill, and by requiring city clerks to copy, forward, and file the copies of, the original statements.

Existing law requires candidates for judge to file statements of economic interest with the clerk of the court, as do judges and court commissioners.

This bill would provide that candidates for judge shall instead file those statements with the person with whom the candidate's declaration of candidacy is filed.

Existing provisions of the act provide that a person who intentionally or negligently violates the reporting requirements or contribution limits of the act, as specified, shall be liable in a civil action by the civil prosecutor or any person residing within the jurisdiction. These actions have certain special pleading rules,

including that no complaint, cross-complaint, or other initial pleading shall be dismissed for failure to provide required notice to the commission.

This bill would eliminate this bar on dismissal for violating these notice requirements, and would prohibit temporary or permanent relief from being granted under these provisions until a copy of the pleading has been furnished to the commission.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 82048.7 of the Government Code is
- 2 amended to read:
- 3 82048.7. (a) "Sponsored committee" means a committee,
- 4 other than a candidate controlled committee, which has one or
- 5 more sponsors. Any person, except a candidate or other
- 6 individual, may sponsor a committee.
- 7 (b) A person sponsors a committee if any of the following
- 8 apply:
- 9 (1) The committee receives 80 percent or more of its
- 10 contributions from the person or its members, officers,
- 11 employees, or shareholders.

1 (2) The person collects contributions for the committee by use
2 of payroll deductions or dues from its members, officers, or
3 employees.

4 (3) The person, alone or in combination with other
5 organizations, provides all or nearly all of the administrative
6 services for the committee.

7 (4) The person, alone or in combination with other
8 organizations, sets the policies for soliciting contributions or
9 making expenditures of committee funds.

10 SEC. 2. Section 84200.3 of the Government Code is repealed.

11 ~~84200.3. (a) In connection with a statewide direct primary~~
12 ~~held in March of an even-numbered year, and any other election~~
13 ~~held on the same day as that election, the following candidates~~
14 ~~and committees shall file campaign statements pursuant to~~
15 ~~Section 84200.4 for the calendar year prior to the election:~~

16 ~~(1) All candidates who have filed or are required to file a~~
17 ~~statement of intention pursuant to Section 85200 in connection~~
18 ~~with the election, their controlled committees, and committees~~
19 ~~primarily formed to support or oppose those candidates.~~

20 ~~(2) Committees formed pursuant to subdivision (a) of Section~~
21 ~~82013 that are primarily formed to support the qualification,~~
22 ~~passage, or defeat of a measure being voted upon in the election.~~

23 ~~(3) State and county general purpose committees formed~~
24 ~~pursuant to subdivision (a) of Section 82013, except that a~~
25 ~~committee covered by this subdivision is not required to file~~
26 ~~pursuant to subdivision (a) of Section 84200.4 if it has not made~~
27 ~~contributions or independent expenditures totaling five hundred~~
28 ~~dollars (\$500) or more during the period July 1 through~~
29 ~~September 30.~~

30 ~~(4) City general purpose committees formed pursuant to~~
31 ~~Section 82013, except that a committee covered by this~~
32 ~~subdivision is not required to file pursuant to subdivision (a) of~~
33 ~~Section 84200.4 if it has not made contributions or independent~~
34 ~~expenditures totaling five hundred dollars (\$500) or more during~~
35 ~~the period July 1 through September 30.~~

36 ~~(5) Candidates and committees not covered under paragraphs~~
37 ~~(1) to (4), inclusive, that make contributions totaling five~~
38 ~~thousand dollars (\$5,000) or more to an elected state officer, a~~
39 ~~candidate for elective state office, his or her controlled~~
40 ~~committee, or a committee primarily formed to support or oppose~~

1 ~~any elected state officer or candidate for elective state office~~
2 ~~during the period July 1, through September 30 or July 1 through~~
3 ~~December 31.~~

4 ~~(6) Any slate mailer organization that produces a slate mailer~~
5 ~~supporting or opposing a candidate or measure being voted on in~~
6 ~~the election if the slate mailer organization receives payments~~
7 ~~totaling five hundred dollars (\$500) or more from any person for~~
8 ~~the support of or opposition to a candidate or ballot measure in~~
9 ~~one or more slate mailers, or expends five hundred dollars (\$500)~~
10 ~~or more to produce one or more slate mailers.~~

11 ~~(b) A candidate, committee, or slate mailer organization~~
12 ~~required to file a campaign statement pursuant to this section is~~
13 ~~not required to file a campaign statement pursuant to Section~~
14 ~~84200 or 84218 for the period ending December 31 of the year~~
15 ~~prior to the statewide direct primary election.~~

16 ~~(c) A candidate or committee who has filed a campaign~~
17 ~~statement pursuant to this section is not required to file additional~~
18 ~~statements pursuant to Section 84202.3, 84202.5, or 84202.7.~~

19 SEC. 3. Section 84200.4 of the Government Code is repealed.

20 ~~84200.4. In addition to other reports required under this~~
21 ~~chapter, campaign statements shall be filed as follows in~~
22 ~~connection with a statewide direct primary election held in~~
23 ~~March of an even-numbered year or any other election held on~~
24 ~~that date:~~

25 ~~(a) For the period ending September 30 of the year prior to the~~
26 ~~election, a statement shall be filed no later than October 10 for~~
27 ~~the period ending September 30.~~

28 ~~(b) For the period ending December 31 of the year prior to the~~
29 ~~election, a statement shall be filed no later than January 10 of the~~
30 ~~year of the election.~~

31 SEC. 4. Section 84203 of the Government Code is amended
32 to read:

33 84203. (a) Each candidate or committee that makes or
34 receives a late contribution, as defined in Section 82036, shall
35 report the late contribution to each office with which the
36 candidate or committee is required to file its next campaign
37 statement pursuant to Section 84215. The candidate or committee
38 that makes the late contribution shall report his or her full name
39 and street address and the full name and street address of the
40 person to whom the late contribution has been made, the office

sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required ~~for contributions to be filed by a candidate or committee that has disclosed~~ *the late contribution* pursuant to subdivision (a) or (b) of Section 85309.

SEC. 5. Section 84204 of the Government Code is amended to read:

84204. (a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or

letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, that is required to be reported with a late independent expenditure report by this subdivision, is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

~~(e) The report required pursuant to this section is not required for any committee filing reports. Expenditures that have been disclosed by candidates and committees pursuant to Section 85500 are not required to be disclosed pursuant to this section.~~

SEC. 6. Section 87205 of the Government Code is amended to read:

87205. A person who completes a term of an office specified in Section 87200 and within 45 days begins a term of the same office or another such office of the same jurisdiction is not deemed to assume office or leave office.

SEC. 7. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

1 (a) Statewide elected officer—one original with the agency
2 which shall make and retain a copy and forward a copy to the
3 Secretary of State and the original to the commission, which shall
4 retain the original and send one copy to the Registrar-Recorder of
5 Los Angeles County and one copy to the Clerk of the City and
6 County of San Francisco. The commission shall be the filing
7 officer.

8 (b) Candidates for statewide elective office—one original and
9 one copy with the person with whom the candidate's declaration
10 of candidacy is filed, who shall forward the copy to the Secretary
11 of State and the original to the commission which shall retain the
12 original and send one copy to the Registrar-Recorder of Los
13 Angeles County and one copy to the Clerk of the City and
14 County of San Francisco. The commission shall be the filing
15 officer.

16 (c) Members of the Legislature and Board of
17 Equalization—one original with the agency which shall make
18 and retain a copy and forward a copy to the Secretary of State
19 and the original to the commission, which shall retain the original
20 and send one copy to the clerk of the county which contains the
21 largest percentage of registered voters in the election district
22 which the officeholder represents, and one copy to the clerk of
23 the county in which the officeholder resides. No more than one
24 copy of each statement need be filed with the clerk of any one
25 county. The commission shall be the filing officer.

26 (d) Candidates for the Legislature or the Board of
27 Equalization—one original and one copy with the person with
28 whom the candidate's declaration of candidacy is filed, who shall
29 forward the copy to the Secretary of State and the original to the
30 commission which shall retain the original and send one copy to
31 the clerk of the county which contains the largest percentage of
32 registered voters in the election district in which the candidate
33 seeks nomination or election, and one copy to the clerk of the
34 county in which the candidate resides. No more than one copy of
35 each statement need be filed with the clerk of any one county.
36 The commission shall be the filing officer.

37 (e) Persons holding the office of chief administrative officer
38 and candidates for and persons holding the office of district
39 attorney, county counsel, county treasurer, and member of the
40 board of supervisors—one original with the county clerk who

1 shall make and retain a copy and forward the original to the
2 commission which shall be the filing officer.

3 (f) Persons holding the office of city manager or, if there is no
4 city manager, the chief administrative officer, ~~the city treasurer,~~
5 and candidates for and persons holding the office of city council
6 member, *city treasurer*, city attorney, and mayor—one original
7 with the city clerk who shall make and retain a copy and forward
8 the original to the commission which shall be the filing officer.

9 (g) Members of the Public Utilities Commission, members of
10 the State Energy Resources Conservation and Development
11 Commission, planning commissioners, and members of the
12 California Coastal Commission—one original with the agency
13 which shall make and retain a copy and forward the original to
14 the commission which shall be the filing officer.

15 (h) Members of the Fair Political Practices Commission—one
16 original with the commission which shall make and retain a copy
17 and forward the original to the office of the Attorney General
18 which shall be the filing officer.

19 (i) Judges; ~~and court commissioners, and candidates for the~~
20 ~~office of judge—one commissioners—one~~ original with the clerk
21 of the court who shall make and retain a copy and forward the
22 original to the commission which shall be the filing officer.
23 *Original statements of candidates for the office of judge shall be*
24 *filed with the person with whom the candidate's declaration of*
25 *candidacy is filed, who shall retain a copy and forward the*
26 *original to the commission, which shall be the filing officer.*

27 (j) Except as provided for in subdivision (k), heads of
28 agencies, members of boards or commissions not under a
29 department of state government or members of boards or
30 commissions not under the jurisdiction of a local legislative
31 body—one original with the agency, which shall make and retain
32 a copy and forward the original to the code reviewing body
33 which shall be the filing officer. In its discretion, the code
34 reviewing body may provide that the original be filed directly
35 with the code reviewing body and that no copy be retained by the
36 agency.

37 (k) Heads of local government agencies and members of local
38 government boards or commissions, for which the Fair Political
39 Practices Commission is the code reviewing body, one original to
40 the agency or board or commission which shall be the filing

1 officer, unless at its discretion the Fair Political Practices
2 Commission elects to act as the filing officer. In this instance, the
3 original shall be filed with the agency, board, or commission,
4 which shall make and retain a copy and forward the original to
5 the Fair Political Practices Commission.

6 (l) Designated employees of the Legislature—one original
7 with the house of the Legislature by which the designated
8 employee is employed. In its discretion, each house of the
9 Legislature may provide that the originals of statements filed by
10 its designated employees be filed directly with the commission,
11 and that no copies be retained by that house.

12 (m) Designated employees under contract to more than one
13 joint powers insurance agency and who elect to file a
14 multiagency statement pursuant to Section 87350, the original of
15 the statement with the commission which shall be the filing
16 officer, and a statement with each agency with which they are
17 under contract, declaring that their statement of economic
18 interests is on file with the commission and available upon
19 request.

20 (n) Members of a state licensing or regulatory board, bureau,
21 or commission—one original with the agency, which shall make
22 and retain a copy and forward the original to the commission,
23 which shall be the filing officer.

24 (o) Persons not mentioned above—one original with the
25 agency or with the code reviewing body, as provided by the code
26 reviewing body in the agency's conflict of interest code.

27 SEC. 8. Section 91007 of the Government Code is amended
28 to read:

29 91007. (a) Any person, before filing a civil action pursuant to
30 Sections 91004 and 91005, must first file with the civil
31 prosecutor a written request for the civil prosecutor to commence
32 the action. The request shall include a statement of the grounds
33 for believing a cause of action exists. The civil prosecutor shall
34 respond to the person in writing, indicating whether he or she
35 intends to file a civil action.

36 (1) If the civil prosecutor responds in the affirmative and files
37 suit within 120 days from receipt of the written request to
38 commence the action, no other action may be brought unless the
39 action brought by the civil prosecutor is dismissed without
40 prejudice as provided for in Section 91008.

(2) If the civil prosecutor responds in the negative within 120 days from receipt of the written request to commence the action, the person requesting the action may proceed to file a civil action upon receipt of the response from the civil prosecutor. If, pursuant to this subdivision, the civil prosecutor does not respond within 120 days, the civil prosecutor shall be deemed to have provided a negative written response to the person requesting the action on the 120th day and the person shall be deemed to have received that response.

(3) The time period within which a civil action shall be commenced, as set forth in Section 91011, shall be tolled from the date of receipt by the civil prosecutor of the written request to either the date that the civil action is dismissed without prejudice or the date of receipt by the person of the negative response from the civil prosecutor, but only for a civil action brought by the person who requested the civil prosecutor to commence the action.

(b) Any person filing a complaint, cross-complaint, or other initial pleading in a civil action pursuant to Section 91003, 91004, 91005, or 91005.5 shall, within 10 days of filing the complaint, cross-complaint, or initial pleading, serve on the commission a copy of the complaint, cross-complaint, or initial pleading or a notice containing all of the following:

- (1) The full title and number of the case.
- (2) The court in which the case is pending.
- (3) The name and address of the attorney for the person filing the complaint, cross-complaint, or other initial pleading.
- (4) A statement that the case raises issues under the Political Reform Act of 1974.

~~(c) No complaint, cross-complaint, or other initial pleading shall be dismissed for failure to comply.~~ *Temporary or permanent relief shall not be granted until a copy of the pleading has been furnished to the commission in accordance with subdivision (b).*

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

1 crime within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

3 However, if the Commission on State Mandates determines
4 that this act contains other costs mandated by the state,
5 reimbursement to local agencies and school districts for those
6 costs shall be made pursuant to Part 7 (commencing with Section
7 17500) of Division 4 of Title 2 of the Government Code.

8 SEC. 10. The Legislature finds and declares that the
9 provisions of this act further the purposes of the Political Reform
10 Act of 1974 within the meaning of subdivision (a) of Section
11 81012 of the Government Code.

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